

Exhibit 17

Order Dismissing Adversary Complaint

1 ADAM N. BARASCH (State Bar No. 158220)
2 DONALD H. CRAM (State Bar No. 160004)
3 JOHN B. SULLIVAN (State Bar No. 96742)
4 SEVERSON & WERSON
5 A Professional Corporation
6 One Embarcadero Center, Suite 2600
7 San Francisco, California 94111
8 Telephone: (415) 398-3344
9 Facsimile: (415) 956-0439

10 Attorneys for Defendant
11 GMAC Mortgage, LLC

FILED & ENTERED

SEP 12 2012

CLERK U.S. BANKRUPTCY COURT
Central District of California
BY penning DEPUTY CLERK

12 UNITED STATES BANKRUPTCY COURT
13
14 CENTRAL DISTRICT OF CALIFORNIA
15
16 LOS ANGELES DIVISION

17 In re

Case No. 2:11-bk-57082-TD

18 FRANCINE SILVER,

Chapter 7

19 Debtor.

Adv. No. 2:12-ap-01352-TD

20 FRANCINE SILVER,

**ORDER ON GMACM'S MOTION TO
DISMISS COMPLAINT**

21 Plaintiff,

DATE: September 6, 2012

22 vs.

TIME: 11:00 AM

23 GMAC MORTGAGE, LLC,

COURT: 1345

24 Defendant.

Complaint Filed: March 6, 2012

25 The Motion to Dismiss the Complaint of Plaintiff Francine Silver ("Plaintiff"), filed by
26 Defendant GMAC Mortgage LLC ("GMACM or Defendant"), came on regularly for hearing on the
27 above-captioned date and time before the Honorable Judge Thomas Donovan. Defendant appeared
28 by and through their attorney of record, Adam N. Barasch, of the law firm of Severson & Werson,
P.C. Plaintiff did not appear at the hearing and is deemed consent to the court's tentative ruling
previously announced.

Upon consideration of Defendant's motion, Plaintiff's opposition, and the pleadings and files
in this case, and finding that service of the motion was proper:

1
2 IT IS HEREBY ORDERED that the tentative ruling of the Court as docketed herein is
3 adopted as the final ruling and Plaintiff's Adversary Case is dismissed without leave to amend and
4 without prejudice for the reasons stated on the record.

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23 DATED: September 12, 2012

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United States Bankruptcy Judge

**United States Bankruptcy Court
Central District of California**

Los Angeles

Judge Thomas B. Donovan, Presiding

Courtroom 1345 Calendar

Thursday, September 6, 2012

Hearing Room 1345

11:00 am

2:11-57082 Francine Silver

Chapter 7

Adv#: 2:12-01352 Silver v. GMAC MORTGAGE et al

#50.00 Hrg re GMAC Mortgage LLC's
motion to dismiss complaint
[Adam N. Barasch]

Docket #: 17

Tentative Ruling:

PLAINTIFF'S OPPOSITION IS OVERRULED.
DEFENDANT'S MOTION IS GRANTED FOR REASONS
STATED IN THE MOTION.

(1) ON MARCH 6, 2012, WHEN PLAINTIFF FILED
THIS ADVERSARY, PLAINTIFF HAD NO STANDING
UNDER RULE 17.

(2) EVEN IF PLAINTIFF LATER RE-ACQUIRED A
PECUNIARY INTEREST IN THE REAL PROPERTY
THAT IS THE SUBJECT OF HER ADVERSARY (BY
REASON OF HER FORMER CHAPTER 7 TRUSTEE'S
ABANDONMENT OF HER BANKRUPTCY ESTATE'S
INTEREST), THE REAL PROPERTY IS NOT NOW
PROPERTY OF AN ACTIVE BANKRUPTCY ESTATE.

(3) FOR THE FOREGOING REASONS, THE COURT
LACKS SUBJECT MATTER JURISDICTION IN THIS
ADVERSARY.

(4) EVEN IF THE COURT RETAINED SOME
JURISDICTIONAL BASIS OVER PLAINTIFF'S CLAIMS
OR THE REAL PROPERTY, THE COURT BELIEVES IT
SHOULD ABSTAIN PURSUANT TO THE PROVISIONS
OF 11 U.S.C. § 305(a). THE COURT ALSO BELIEVES IT
SHOULD DISMISS THIS ADVERSARY WITHOUT

**United States Bankruptcy Court
Central District of California**

Los Angeles

Judge Thomas B. Donovan, Presiding

Courtroom 1345 Calendar

Thursday, September 6, 2012

Hearing Room 1345

11:00 am

Cont.... Francine Silver

Chapter 7

LEAVE TO AMEND IN THE INTEREST OF JUSTICE OR
COMITY WITH STATE COURTS AND RESPECT FOR
STATE LAW.

PLAINTIFF'S ACCOMPANYING REQUEST FOR
JUDICIAL NOTICE IS DENIED.

NO APPEARANCE IS NECESSARY.

MOVANT MUST LODGE A PROPOSED ORDER
WITHIN 7 DAYS.

IF ANY PARTY PLANS TO APPEAR, PLEASE
PROMPTLY NOTIFY THE COURT AND ALL OTHER
PARTIES.

Party Information

Debtor(s):

Francine Silver

Represented By

Ehud Gersten

Defendant(s):

GMAC MORTGAGE

Represented By

Adam N Barasch

GMAC MORTGAGE, LLC

Represented By

Adam N Barasch

Plaintiff(s):

Francine Silver

Represented By

Ehud Gersten

Trustee(s):

David M Goodrich (TR)

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:

One Embarcadero Center, Suite 2600, San Francisco, CA 94111

A true and correct copy of the foregoing document entitled (*specify*): **ORDER ON GMACM'S MOTION TO DISMISS COMPLAINT** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) September 10, 2012, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

Plaintiff's Attorney: Ehud Gersten, egersten@gerstenlaw.com
United States Trustee (LA): ustpreion16.la.ecf@usdoj.gov

☐ Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:

On (*date*) September 10, 2012, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Francine Silver
8613 Franklin Ave
West Hollywood, CA 90069

Hon. Thomas B. Donovan
U.S. Bankruptcy Court
255 East Temple Street, Ste. 1352
Los Angeles, CA 90012

David M. Goodrich
870 Roosevelt Ave.
Irvine, CA 92620

☐ Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (*state method for each person or entity served*): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (*date*) _____, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

September 10, 2012 Erica Wheelock
Date Printed Name

/s/ Erica Wheelock
Signature

NOTICE OF ENTERED ORDER AND SERVICE LIST

Notice is given by the court that a judgment or order entitled (*specify*): **ORDER ON GMACM'S MOTION TO DISMISS COMPLAINT** was entered on the date indicated as "Entered" on the first page of this judgment or order and will be served in the manner stated below:

1. **SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF)** Pursuant to controlling General Orders and LBRs, the foregoing document was served on the following persons by the court via NEF and hyperlink to the judgment or order. As of (*date*) September 10, 2012, the following persons are currently on the Electronic Mail Notice List for this bankruptcy case or adversary proceeding to receive NEF transmission at the email addresses stated below.

Defendant's Attorney: Adam N. Barasch, anb@severson.com
Plaintiff's Attorney: Ehud Gersten, egersten@gerstenlaw.com
U.S. Trustee: ustprejon16.la.ecf@usdoj.gov

☐ Service information continued on attached page

2. **SERVED BY THE COURT VIA UNITED STATES MAIL:** A copy of this notice and a true copy of this judgment or order was sent by United States mail, first class, postage prepaid, to the following persons and/or entities at the addresses indicated below:

Francine Silver
8613 Franklin Ave
West Hollywood, CA 90069

☐ Service information continued on attached page

3. **TO BE SERVED BY THE LODGING PARTY:** Within 72 hours after receipt of a copy of this judgment or order which bears an "Entered" stamp, the party lodging the judgment or order will serve a complete copy bearing an "Entered" stamp by United States mail, overnight mail, facsimile transmission or email and file a proof of service of the entered order on the following persons and/or entities at the addresses, facsimile transmission numbers, and/or email addresses stated below:

☐ Service information continued on attached page